

ANALYSIS OF AMENDED BILL

Author: Wayne

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Bill Number: AB 305

Related Bills: AB 230 (97/98)

Telephone: 845-5322

Amended Date: 05-08-97

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Business Expense Deduction/Self-Employed Health Insurance/100% of Amount Paid

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO Neutral.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED 2/19/97 STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would change the existing deduction from gross income of 25% of a self-employed individual's cost for health insurance to 100% of the amount paid, limited to specified amounts.

SUMMARY OF AMENDMENT

The amendment specifies the maximum amount allowable as a deduction. The maximum amounts are based on the amounts paid on behalf of active state employees for health insurance provided through the Public Employees Retirement System (PERS). The amount of health insurance currently provided through PERS is \$174 per month for the employee, \$323 per month for the employee plus one other family member, and \$410 per month for the employee plus two or more family members. On an annual basis this amounts equate to \$2,088, \$3,876 and \$4,920 respectively.

EFFECTIVE DATE

This bill would become effective for taxable years beginning on or after January 1, 1997.

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE

____ GOVERNOR'S APPOINTMENT

Department Director Position:

☐ S ☐ O
☐ SA ☐ OUA
☒ N ☐ NP
☐ NA ☐ NAR
☐ PENDING

Agency Secretary Position:

☐ S ☐ O
☐ SA ☐ OUA
☐ N ☐ NP
☐ NA ☐ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved _____
Position Disapproved _____
Position Noted _____

Department/Legislative Director Date
Gerald H. Goldberg 6/3/97

Agency Secretary Date

By: Date:

SPECIFIC FINDINGS

Except for the items discussed below, the remainder of the department's prior analysis of the bill as introduced February 14, 1997, still applies.

Technical Considerations

The amendment would use the term "health insurance" but would not define it. Health insurance is not defined in the Internal Revenue Code (IRC); however, medical insurance is defined as any insurance for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. The term "health insurance" is used in the IRC in the title of the subsection allowing medical insurance paid by self-employed individuals as a partial deduction in computing the taxpayer's adjusted gross income. It is not clear if the bill intends to limit the amount to just health insurance or to health, dental, and vision insurance.

The amendment would not clarify that a taxpayer filing a return as a single person with no dependents (for tax purposes or otherwise) would be entitled only to the amount paid on the behalf of a employee, with no dependents. It could be argued that all taxpayers would be allowed the maximum amount paid on behalf of an active state employee.

Additionally, the amendment uses the plural of employee.

Implementation Considerations

The maximum amount PERS will pay for the health insurance component benefit changes when a new labor contract is signed by the state government and labor unions. The effective date of the change has historically been January 1st of the year following the year the labor contract was signed. Presently, state employees are not working under a labor contract; therefore, the health insurance amounts negotiated for the last signed contract remains in effect. The next signed labor contract could make any increase or decrease in health insurance benefits effective during any part of the year, making the implementation of this bill difficult.

Amendment 1 attached to this analysis would resolve the department's considerations.

FISCAL IMPACT

Tax Revenue Estimate

The revenue losses from this provision are estimated to be as shown in the following table.

Fiscal Year Cash Flow Taxable Years Beginning After December 31, 1996 Enactment Assumed After June 30, 1997 \$ Millions			
1997-8	1998-9	1999-0	2000-01
(\$41)	(\$34)	(\$39)	(\$45)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The revenue impact of this provision would be determined by the number of self-employed individuals who claim additional insurance deductions, and the average marginal tax rate applicable to the deduction amounts.

This amendment differs from the original version dated February 14, 1997, by modifying that the maximum amount of the deduction cannot exceed the amount paid on behalf of active state employees for health insurance provided through the Public Employees Retirement System (PERS), and thereby, reduced the original estimate.

BOARD POSITION

Neutral. On April 14, 1997, the FTB voted to take a neutral position on this legislation as originally introduced.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 305
As Proposed To Be Amended

AMENDMENT 1

On page 2, beginning with line 6, make subdivision (a) read as follows:

- (a) ~~(1)~~ For taxable years beginning on or after January 1, 1997, Section 162 (1) of the Internal Revenue Code ~~(1)~~, relating to special rules for health insurance costs of self-employed individuals is modified to as follows:
- (1) In Section 162(1)(1) of the Internal Revenue Code substitute "100 percent" in lieu of "25 percent".
- (2) ~~For taxable years beginning on or after January 1, 1997, Section 162(1)(2) is modified so that the maximum amount of the deduction allowed by this section shall not exceed the amount paid on behalf of active state employees for health insurance provided through the Public Employees Retirement System. The amount of the deduction allowed for the taxable year under this section to a self-employed individual shall not exceed the maximum annualized amount for the month of September of the preceding taxable year that would be allowed to be paid on behalf of an active miscellaneous state employee, using the same filing status and number of dependents as the taxpayer, for the health insurance benefit provided through the Public Employees Retirement System.~~
- (3) For purposes of paragraph (2), "health insurance" does not include separately stated allowances for dental and vision coverage.